

Field Transplant Workers

Date December 23, 2003

Distribution County Agricultural Commissioners

Enclosure to Enforcement Letter ENF 03-45

Referrals If you have any questions pertaining to this letter, please contact your senior pesticide use specialist liaison.

Introduction This responds to a request for clarification concerning field transplant workers relative to worker safety regulation requirements.

Background Several field agricultural crops are grown using transplants from nursery seedbeds. Most current agricultural practice involves the transplants being set into the soil concurrent with an at-plant pesticide application. Such transplant operations usually are accomplished using one of the following two methods.

1. Manual transplanting with concurrent pesticide application where the employees plant the seedlings in advance of the spray-rig, with the spray-rig following behind applying the pesticide or
2. Mechanical transplant/application where equipment is a combination planting apparatus and application rig (commonly called a “transplant rig”) attached to and pulled by a tractor on which employee(s) sit and feed seedlings onto the planting arm or wheel (depending on the equipment) which mechanically sets plants into the soil while at the same time a pesticide is applied.

Continued on next page

Field Transplant Workers, Continued

Background (continued)

Additionally, there may be an employee(s) following the transplant rig to assure that the rig is operating and setting the plants in the soil properly.

Note: there are several variations of these transplant type operations where planting occurs at the same time as the pesticide applications (dip solutions, etc.).

Question

When pesticide(s) are applied through the transplant rig during the transplanting process or operation, are transplant workers classified as field workers, early entry workers (limited contract, no contact, Title 3, California Code of Regulations [3 CCR] section 6770) or pesticide handlers?

U.S. Environmental Protection Agency answer 1995

This question was previously answered and is found in a document entitled Agricultural Worker Protection Standard (WPS), 40 U.S. Code of Federal Regulations Parts 156 and 170, Interpretive Policy, Questions and Answers, Number 14.38 – Field Transplant operation, coverage by WPS (enclosed).

- This document is published by the U.S. Environmental Protection Agency (U.S. EPA), Office of Enforcement and Compliance Assurance, and is dated March 15, 1995.
 - In summary, U.S. EPA found employees were considered “fieldworkers” when they are not involved in the “pesticide application process.” And when employees were involved in the “pesticide application process, they are considered handlers.”
 - The answer is updated (below) to reflect current 3 CCR pest control operations work requirements and pesticide worker safety requirements.
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Department of Pesticide Regulation answer 2003

Under 3 CCR section 6762 (b), no employer shall direct or allow any persons other than the persons making the application to enter or remain in a treated area of a farm during the application. Further, 3 CCR section 6614(b)(1) states (in part) no pesticide application shall be made or continued when there is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process.

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Field Transplant Workers, Continued

“Field workers” not involved in application

For field transplant operations such as described in number one (1) in background above, the employees are considered field workers since they are solely performing hand-labor tasks as transplanters and are not involved in the “pesticide application process” itself.

- If workers can keep in front of the treated area (that area to where the pesticide is being directed or has been directed) and the employer and handler assure that the workers do not come onto contact with the pesticide or pesticide treated surfaces while transplanting (directly or through drift), then the operation would not constitute a violation of 3 CCR section 6762(b) Field Work During Pesticide Application.
 - As field workers, the employer has the responsibility to comply with the following:
 1. Other 3 CCR fieldworker requirements, e.g., hazard communication, application-specific information, emergency medical care, decontamination facilities, field reentry after pesticide application, early entry fieldworkers, and restricted entry intervals
 2. Assure that the workers who are transplanting seedlings constantly remain in front or outside of the treated area
 3. Assure workers do not enter or remain in the treated area during the application of a pesticide
 4. Notify the workers of the pesticide application (3 CCR section 6618[b])
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“Handlers” when involved in application

For field transplant operations such as those described in number two (2) in background above, and for similar pesticide applications combined with another agricultural operations which may require additional employees to operate supplemental equipment (at-plant seed treatments, etc.), the Department of Pesticide Regulation considers the entire operation to be part of a “pesticide application process.” Therefore, the employees are considered handlers and are not subject to restrictions associated with remaining outside of the treated area. As handlers, including those following the rig as described in number two (2) in background above, the employer must provide the following:

1. All workers taking part in such a transplant operation must be trained as required by 3 CCR section 6724–Handler training.
2. The employer must provide and assure all workers wear coveralls when required by 3 CCR section 6736.
3. The employer must provide and assure all workers wear personal protective equipment as required by 3 CCR section 6738.

Field Transplant Workers, Continued

**“Handlers”
when involved
in application
(continued)**

4. Additionally, the employer has the responsibility to comply with other 3 CCR handler requirements, e.g., hazard communication, application-specific information, emergency medical care, medical supervision, and decontamination facilities.
